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10/034,995	01/03/2002	Scott Abram Musman		1115

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EXAMINER	
HIRL, JOSEPH P	
ART UNIT	**PAPER NUMBER**
2129	

DATE MAILED: 03/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10/034,995	01/03/2002	Scott Abram Musman	

EXAMINER
Joseph P. Hirl

ART UNIT	PAPER
2129	20060216

DATE MAILED:

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Springfield, VA 22153

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Commissioner for Patents

1. The record will show that on this date, the applicant's attorney, Martin S. Sulsky, called and and informed the Examiner that the office correspondance dated February 14, 2006 contained the detailed office action of July 19, 2005 and not the current detailed office action initiated by the Examiner and dated February 7, 2006. With this correspondance, a copy of the detailed office action dated February 7, 2006 is provided.

2. Further and for the reason stated above, the period of respose to the enclosed detailed office action of February 7, 2006 will follow the USPTO policy whereby A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTHS FROM THE MAILING DATE OF THIS COMMUNICATION. Appropriate extentions may be available under the provisions of 37 CFR 1.136(a) but in no event may a reply be timely filed after six months from the mailing date of this communication.

3. Concerning the details of the instant office action, the applicant is encouraged to review the comments in detail and then call the Examiner to schedule an interview for appropriate discussion.

4. For Correspondance Information, please see prior office actions.

Joseph P. Hirl
Primary Examiner
Art Unit: 2129

DETAILED ACTION

1. This Office Action is in response to an AMENDMENT entered December 5, 2005 for the patent application 10/034,995 filed on January 3, 2002.

2. All prior office actions are incorporated into this office action by reference.

Status of Claims

3. Claims 1-36 are pending in this application.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-36 are rejected under 35 U.S.C. 102(b) as being anticipated by Douik et al (U.S. Patent 6,012,152, referred to as **Douik**).

Claim 1

Douik anticipates a plurality of interface agents running on the plurality of hosts, the plurality of interface agents assigned to resources within the computer network (**Douik**, ¶ 12 below applies to all claims; Figs. 1, 2; c 15, l 16-31); a plurality of distributed case-based reasoning agents running on the plurality of hosts, wherein the

plurality of distributed case-based reasoning agents is capable of accessing one or more case bases (**Douik**, Figs. 1, 2; c 6, 32-39; c 7, l 29-33; c 15, l 32-40); and a plurality of response agents running on the plurality of hosts (**Douik**, Figs. 1, 2; c 15, l 41-54), wherein an interface agent in the plurality interface agents monitors event producing components in the system being managed, captures events, is configured to filter events, and sends an input regarding an event in an assigned resource to an appropriate distributed case-based reasoning agent. among the plurality of distributed case-based reasoning agents (**Douik**, Figs. 1, 2; c 15, l 16-64), wherein the appropriate distributed case-based reasoning agent, upon receiving the input, accesses the one or more case bases to select a response and communicates the response to an appropriate response agent in the plurality of response agents (**Douik**, Figs. 1, 2; c 6, 32-39; c 7, l 29-33; c 15, l 32-40), and wherein the appropriate response agent implements the response to resolve the event (**Douik**, Figs. 1, 2; c 15, l 41-54).

Claim 2

Douik anticipates the resources in the computer network includes network management tools, network security tools, operating system specific features, and health tools (**Douik**, c 3, l 4-9; c 9, l 14-40; Examiner's Note (EN): health tools are fault management tools).

Claim 3

Douik anticipates the plurality of distributed case-based reasoning agents consider inputs regarding multiple resources sent by one or more of the plurality of interface agents (**Douik**, Figs. 1, 2; c 6, 32-39; c 7, l 29-33; c 15, l 32-40).

Claim 4

Douik anticipates the response includes invoking one or more cases in the one or more case bases (**Douik**, c 7, l 34-43).

Claim 5

Douik anticipates the plurality of distributed case-based reasoning agents is capable of selecting a response when multiple cases in the one or more case bases match the input (**Douik**, c 7, l 29-54; c 11, l 38-53; c 15, l 32-40; c 26, l 30-37; EN: model-based reasoning incorporates the plurality of case-based reasoning facilitating the matching with input).

Claim 6

Douik anticipates the plurality of distributed case-based reasoning agents uses a precedence order to select a response (**Douik**, c 16, l 9-15; EN: precedence is order or hierarchy).

Claims 7, 27

Douik anticipates the precedence order is defined based on specificity and priority values (**Douik**, c 16, l 9-15; EN: such is reasoning, testing and knowledge maintenance).

Claims 8, 28

Douik anticipates the plurality of distributed case-based reasoning agents uses response function call-switches to select a response (**Douik**, c 26, l 7-29; c 30, l 20-30; c 36, l 42-46; EN: such is the process of repairing a phone system).

Claims 9, 29

Douik anticipates the response function call-switches include active, always-fire, call-next, and timeout switches (**Douik**, c 26, l 7-29; c 30, l 20-30; c 36, l 42-46; EN: such is the process of repairing a phone system; EN: telephone switchers are on or off - active or timeout, always on and queued relate to always-fire and call-next).

Claims 10, 30

Douik anticipates the plurality of distributed case-based reasoning agents uses a precedence order and response function call-switches to select the response (**Douik**, c 26, l 7-29; c 30, l 20-30; c 36, l 42-46; EN: such is the process of repairing a phone system to include the related hierarchy or precedence).

Claim 11

Douik anticipates the response includes invoking one or more cases in the one or more case bases (**Douik**, c 7, l 29-54; c 11, l 38-53; c 15, l 32-40; c 26, l 30-37; EN: model-based reasoning incorporates the plurality of case-based reasoning representing one or more cases).

Claim 12

Douik anticipates the plurality of cases includes case templates (**Douik**, c 17, l 6-51; EN: models are templates).

Claim 13

Douik anticipates the case templates are used to represent an event, add a new case, or analyze historical events (**Douik**, c 17, l 6-51; EN: such is models).

Claim 14

Douik anticipates agents including the plurality of interface agents, the plurality of distributed case-based reasoning agents, and the plurality of response agents are independent (**Douik**, Figs. 1, 2; c 6, 32-39; c 7, l 29-33; c 15, l 32-40).

Claim 15

Douik anticipates cases in the one or more case bases are adaptable (**Douik**, c 27, l 43-52).

Claims 16, 18, 33

Douik anticipates a failing agent is replaced by another Agent (**Douik**, c 3, l 48-57).

Claims 17, 31, 36

Douik anticipates monitoring a resource in the computer network using an interface agent (**Douik**, Figs. 1, 2; c 15, l 16-31); reporting, using the interface agent, an event in the resource to an appropriate distributed case-based reasoning agent (**Douik**, Figs. 1, 2; c 15, l 16-31); selecting a response using the appropriate distributed case-based reasoning agent (**Douik**, Figs. 1, 2; c 6, 32-39; c 7, l 29-33; c 15, l 32-40); allowing the system to resolve conflicts when more than one case-based reasoning solution applies (**Douik** @ c15:16-64, Fig. 2; EN: agents resolve conflict by model evaluation at the correlation and diagnosis level); and implementing the response using an appropriate response agent (**Douik**, Figs. 1, 2; c 15, l 41-54), wherein the appropriate distributed case-based reasoning agent accesses one or more case bases in the selecting step, and wherein additional cases may be dynamically added

automatically by using a case-template (**Douik**, Figs. 1, 2; c 6, 32-39; c 7, l 29-33; c 15, l 32-40; EN: computer systems have computer readable mediums – Douik, 1, 26-36; the "wherein clause" is not a limitation since it is condition by "may be" which includes the negative or no limitation; the failing/failed agent (software) automatically assigned to another agent (software) relates to Douik @ c3:48-57 where Douik automatically discards superfluous/non-relevant event notifications using filtering and correlation to automatically identify the fault such that the difference between the applicant's failed agents and Douik's automatic analysis is that of descriptive material ... not functionally different.).

Claims 19, 34

Douik anticipates dynamically updating the one or more case bases. (**Douik**, c 24, l 64-67 ; c 25, l 1-11).

Claim 20

Douik anticipates the updating step uses a plurality of case templates (**Douik**, c 17, l 6-51).

Claim 21

Douik anticipates an event using a case template, wherein the case template may be updated (**Douik**, c 17, l 6-65).

Claim 22

Douik anticipates adding a new case to the one or more case bases using a case template (**Douik**, c 18, l 34-50; c 26, l 30-37; EN: SFM contains the case-based reasoning and agents).

Claim 23

Douik anticipates analyzing historical data using a case template (**Douik**, c 26, l 30-37).

Claim 24

Douik anticipates the analyzing step may be used in the selecting step (**Douik**, Fig. 2).

Claims 25, 35

Douik anticipates resolving a conflict when multiple cases match the event (**Douik**, c 26, l 7-29; EN: fault is synonymous with multiple case conflict).

Claim 26

Douik anticipates the resolving step uses a precedence order (**Douik**, c 26, l 7-29; EN: hierarchical order establishes precedence).

Claim 32

Douik anticipates surviving a failure without service interruption (**Douik**, c 29, l 48-60).

Response to Arguments

6. The objection to the specification regarding to the missing pages is withdrawn.

7. The Double Patenting rejection of claims 17-24, and 31-36 is withdrawn.

8. Applicant's arguments filed on December 5, 2005 related to Claims 1-36 have been fully considered but are not persuasive.

In reference to Applicant's argument:

In particular, (1) the "interface agent" of the presently claimed invention can capture and report events in a standard format as they occur in the managed computer network, can process raw data or filter events sometimes making it unnecessary to report the events, and can also replay old events if needed ([0042], [0043], [0046] and [0047]). The event report handler and correlation agents of Douik do not perform these functions (Col. 15, lines 16-31). (2) The "switch" of the presently claimed invention is a software element ([0073]), not a hardware element as disclosed by Douik (Col. 9, line 63 to Col. 10, line 4 and Col. 11, lines 17-21). (3) The agents of the presently claimed invention can cure (and operate through) some of their own faults (that is, the function of a failed or failing agent can be assigned to another agent) ([0019)) while the agents of Douik only address faults in the managed system (Col. 11, lines 3-15). (4) "Resolving" in the presently claimed invention is associated with determining the order of resolving conflicts when more than one case of a casebased reasoning solution may be applied, further the rules for resolving may be set by the user of the claimed invention. ([0064]). In contrast, the "hierarchy" of Douik refers to the level of software (e.g., the shell level) that was determined by the designer of the Douik system. (Col. 6, lines 50-51). (5) The presently claimed invention uses case-based reasoning while Douik uses model based reasoning. These methods are technically quite different. Model based reasoning methods require the formulation of a unique model for each situation. ([0052]-[0064]) Further, Douik teaches away from the use of case-based reasoning (Col. 7, line 50-55 and Col. 26, line 64- Col. 25, line 25). (6) The word "template" in the presently claimed invention is defined completely differently than used by Douik. In the present application, a template is tool that can be used by a user to dynamically add new cases and/or represent a specific situation ([0065]). :fn Douik, a template is a managed object definition used for GIVIDC) modeling (Col. 17, lines 30-35 and Col. 18 lines 34-50). (7) Additionally, the presently claimed invention can automatically and dynamically adapt a case template into a case during operation without human intervention. ([0067]).

Examiner's response:

¶ 12. applies. The claims and only the claims form the metes and bounds of the invention. Limitations appearing in the specification but not recited in the claim are not read into the claim. "The diagnosis agent 28 analyzes and tests the suspect software components against their modeled behaviors under test to verify the explanations supplied by the correlations agent" (Douik @ c 15:32-35. Agents cure their own faults by using a correlation agent to model the identify potential faults, using a diagnosis agent to test the suspected software components and if the process fails (no solution), the process returns to the correlation agent (Douik @ c15:16-54, Fig. 2). Douik cites casedbased reasoning as prior art (Douik @ c7:28-54) albeit with limitations which does not eliminate the fact that casedbased reasoning is prior art. Again, limitations

appearing in the specification but not recited in the claim are not read into the claim and further, the Examiner has full latitude to interpret each claim in the broadest reasonable sense. Hence template is anticipated by Douik. Additionally, Douik teaches a managed-object class is a model or template for managed-object instances. Hence, Douik's templates are automatic, dynamic and adaptable and don't require human intervention.

In reference to Applicant's argument:

Independent claim 1 has been amended to include the feature that an interface agent "monitors event producing components in the system being managed, captures events, is configured to filter events." As discussed above, this feature is neither taught nor suggested by Dowk. Thus, Douik does not anticipate claim 1 or any of the claims that depend on claim 1.

Examiner's response:

¶ 12. applies. Douik's event report handler agent anticipates such events. Further, since claim merely configures to filter events, this does not mean that events are actually filtered and hence does not operationally limit claim 1. Actually, Douik does filter at the lower agent level by adding time correlation to the event (Douik @ c 15:16-20).

In reference to Applicant's argument:

Independent claim 17 has been amended to recite "wherein additional cases may be dynamically added automatically using a case template." As discussed above, this feature is neither taught nor suggested by Douik.

Examiner's response:

¶ 12. applies. See above discussions.

In reference to Applicant's argument:

Independent claim 31 has been amended to recite "means for allowing the system to resolve conflicts when more than one case-based reasoning solution applies."

Examiner's response:

¶ 12. applies. Conflicts or inconsistency is resolved in the I-MIB 36 by automatic consistency (Douik @ c 19:20-64).

In reference to Applicant's argument:

Independent claim 36 has been amended to recite "computer readable program code configured to allow the function of a failing or failed agent to be automatically reassigned to another agent."

Examiner's response:

¶ 12. applies. Agents cure their own faults by using a correlation agent to model the identify potential faults, using a diagnosis agent to test the suspected software components and if the process fails (no solution), the process returns to the correlation agent (Douik @ c15:16-54, Fig. 2). Agents are software implemented.

Examination Considerations

9. The claims and only the claims form the metes and bounds of the invention. "Office personnel are to give the claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris,* 127 F.3d 1048, 1054-55, 44USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim are not read into the claim. *In re Prater*, 415 F.2d, 1393, 1404-05, 162 USPQ

541, 550-551 (CCPA 1969)" (MPEP p 2100-8, c 2, l 45-48; p 2100-9, c 1, l 1-4). The Examiner has full latitude to interpret each claim in the broadest reasonable sense. Examiner will reference prior art using terminology familiar to one of ordinary skill in the art. Such an approach is broad in concept and can be either explicit or implicit in meaning.

10. Examiner's Notes are provided with the cited references to prior art to assist the applicant to better understand the nature of the prior art, application of such prior art and, as appropriate, to further indicate other prior art that maybe applied in other office actions. Such comments are entirely consistent with the intent and spirit of compact prosecution. However, and unless otherwise stated, the Examiner's Notes are not prior art but a link to prior art that one of ordinary skill in the art would find inherently appropriate.

11. Unless otherwise annotated, Examiner's statements are to be interpreted in reference to that of one of ordinary skill in the art. Statements made in reference to the condition of the disclosure constitute, on the face of it, the basis and such would be obvious to one of ordinary skill in the art, establishing thereby an inherent prima facie statement.

12. Examiner's Opinion: ¶¶ 9-11 apply. The Examiner has full latitude to interpret each claim in the broadest reasonable sense.

Conclusion

13. Claims 1-36 are rejected.

Correspondence Information

14. Any inquiry concerning this information or related to the subject disclosure should be directed to the Primary Examiner, Joseph P. Hirl, whose telephone number is (571) 272-3685. The Examiner can be reached on Monday – Thursday from 6:00 a.m. to 4:30 p.m.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, David R. Vincent can be reached at (571) 272-3080. Any response to this office action should be mailed to:

Commissioner of Patents and Trademarks,

Washington, D. C. 20231;

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401 Dulany Street,

Alexandria, Virginia 22313,

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Joseph P. Hirl
Primary Examiner
February 7, 2006